Appointment and transfer of High Court Judges

3952. SHRI MAHESHWAR SINGH: Will the PRIME MINISTER be pleased to state:

(a) whether it is a fact that in the appointment and transfer of Judges of High Court, a ratio of two from the state and one from outside the state is followed;

(b) if so, how many Judges from outside Sikkim have so far been appointed for the High Court of Sikkim under this accepted norm; and

(c) whether it is a fact that all Judges in the Sikkim High Court are from outside the State and that the policy of retaining 2/3rd of the Judges from the home state has not been implemented in Sikkim; if so, the reasons therefor?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) The Government have accepted as a policy recommendations of the Law Commission in its 80th Report that there should be a convention according to which 1/3rd of Judges in each High Court should be from any other State. The Government have decided that this may be implemented either by making initial appointments from outside or by effecting transfers.

(b) 7 Judges/Chief Justices have been appointed from time to time in the Sikkim High Court from outside so far.

(c) One Advocate who had practised in Sikkim High Court was appointed as a Judge of the Sikkim High Court in June, 1976 and was functioning as Chief Justice of an outside High Court till 1.4.95 when he resigned. Another practising Advocate was appointed Judge of the Sikkim High Court on 16.12.94 and is at present functioning as a Judge of Guwahati High Court. At present, both the Chief Justice and the puisne Judge in the Sikkim High Court are from outside the State. The third post of a Judge in the High Court of Sikkim in vacant.

Implementation of Supreme Court Decision on Payment of Penalty for Stalling Public Projects

3953. SHRI ASHOK MITRA:
SHRI K. R. MALKANI:

Will the PRIME MINISTER be *pleased to state*:

(a) whether Govt's attention has been drawn to the recent Supreme Court decision to the effect that parties which indulge in frivolous court proceedings so as to stall public projects shall be liable to payment of damages and compensation;

(b) whether Government propose to undertake administrative steps to enforce this judgement; and

(c) whether Government would also in this connection examine instances where important projects or programmes, such as opening of primary schools, have been held up because of injunctions often indiscriminately granted by lower courts?

THE MINISTER OF STATE IN THE MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS (SHRI H. R BHARDWAJ): (a) Yes, Sir.

(b) and (c) Information is being collected and will be laid on the Table of the House.

Pending Case on Seniority of Judges

3954. SHRI SATYA PRAKASH MALAVIYA: Will the PRIME MINISTER be pleased to state:

(a) whether Government are aware that the case relating to the seniority of judges is lying undecided even after 15 years have passed:

(b) if so, whether Government propose to take any initiative for early decision in this regard;

(c) whether Government are considering to set up All India Judicial Service; and

(d) if so, whether any steps have been taken/or are likely to be taken by Government at the earliest?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) As per provisions of Articles 233 to 235 of the Constitution of India, all matters including seniority of judges belonging to sub-ordi Judiciary of a State are the concern of the respective State Government and High Court. In respect of seniority of officers belonging to Delhi Higher Judicial Service and Delhi Judiciary Service, the Registry of the Delhi High Court has reported that C.W. No. 490/87, C.W. No. 356/88 etc. are pending in the Supreme Court and C.W.P. No. 3867/90 is pending in the Delhi High Court.

(b) The case of preparation of seniority list of Delhi Judicial Office after 1986 is receiving attention of the Delhi Hgh Court.

(c) and (d) In view of the recommendations of the 11th Law Commission as contained in its 116th Report relating to setting up of All India Judicial Service, the question of formation of an All India Judicial Service had been considered on several occasion in the past, but no final decision could be taken. In the light of the Supreme Court's judgement dated 13.11.1991 in W.P. No. 1022/89 and order dated 24-8-1993 in Review Petition No. 249/92 the matter has been reprocessed and is receiving the attention of the Government.

Representations of Sikkim in Supreme Court

3955. SHRI MAHESHWAR SINGH: Will the PRIME MINISTER be pleased to state:

(a) whether it is a fact that Sikkim, which became a part of India about twenty years ago in the year 1975, has never got representation in the Supreme Court despite State Government requests therefor?

(b) whether it is also a fact that the Supreme Court has held in the S.C. Advocates-on-Record Association vs Union of India (AIR 1994 SC 268) that appointment of Judges of the Supreme Court should be made as the result of a participatory consultative process;

(c) whether it is a fact that the Supreme Court has held in the above mentioned case that the Supreme Court should have representative character;

(d) whether the continued denial of representation of Sikkim in the Supreme Court is not against emotional integration of Sikkim with India; and

(e) the action being taken in the matter?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) to (e) As per the judgement dated 6-10-1993 of the Supreme Court of India in the 9 Judges Bench, the Chief Justice of India has to initiate proposal for appointment of a Judge in the Supreme Court after taking into account the views of the 2 senior-most Judges of the Supreme Court.

So far no Judge of the Sikkim High Court has been appointed as a Judge of the Supreme Court.